



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

April 24, 1991

Mr. Robert M. Gooding
Assistant General Counsel
Texas Department of Criminal Justice --
Institutional Division
P.O. Box 99
Huntsville, Texas 77342-0099

OR91-200

Dear Mr. Gooding:

This is to acknowledge your letter of April 2, 1991, regarding an open records request made to the Texas Department of Criminal Justice -- Institutional Division (the division) by Mr. Jerry Easley. This file has been designated ID# 11657.

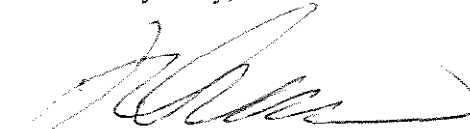
In a letter dated March 26, 1991, this office requested that the division submit the requested documents and legal arguments for withholding them within ten days of your receipt of the letter. That time period has now passed. You state that the division is currently unable to submit the requested documents that you believe to be excepted from required public disclosure because

Mr. Peck has been called to active military service in support of Operation Desert Storm. This was one of the projects that he took with him to work on during any spare time that the military might afford him.

We have no documents before us and no basis upon which to consider any claims for exception from public disclosure. Consequently, we cannot consider your request for an open records decision and are closing the file. As you have not made a timely request for an open records decision, any discretionary exceptions are waived. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, writ ref'd). You may not, of course, release any information deemed confidential by law; we are, however, unable to make any such determination as we have seen none of the documents at issue.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-200.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/RWP/lb

Ref.: ID# 12122
ID# 11657

cc: Jerry E. Easley
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Lovelady, Texas 75851